



9-2-3

DA C #11

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: R.E. Fontana

Atty Docket: SJO990203US1

Serial No.: 09/638,663

Art Unit: 2652

Filing Date: August 14, 2000

Examiner: Allen J. Heinz

Title: "PLANAR MAGNETIC HEAD AND FABRICATION METHOD THEREFOR"

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Mail Stop Petition

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Commissioner for Patents

P.O. Box 1450

Technology Center 2600

Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT ON THE BASIS THAT
A PROPER REPLY TO THE OUTSTANDING PTO FINAL OFFICE ACTION WAS
SENT BY FACSIMILE, 37 CFR 1.8,**

AND ALTERNATIVELY,

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Sir:

Responsive to the Notice of Abandonment mailed July 1, 2003 Applicant petitions in the alternative as follows:

I. Petition to Withdraw Holding of Abandonment

A. Basic Facts

The final Office Action was mailed to Applicant on October 23, 2002. A complete response to the Office Action was faxed to the USPTO on January 21, 2003. A Notice of Abandonment was mailed to the Applicant on July 1, 2003. This Petition is filed within two months of the mailing of the Notice of Abandonment.

B. Discussion

1. The final Office Action (copy enclosed) did not provide a fax number for facsimile filing of a response. This is unusual as such a fax number is typically provided on the last page of the Office Action.

2. Upon preparation of the response (copy enclosed) it was noted that no facsimile filing number was provided in the Office Action. Patricia Beilmann, patent secretary, then called the USPTO Group No. (703) 305-3900 provided in the Office Action, and was

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instructed to use facsimile number (703) 746-5568 to fax the response to the USPTO. See attached Declaration of Patricia Beilmann.

3. The response was sent to the fax number provided by the USPTO on the date indicated, January 21, 2003. Immediately following the transmission of the response, patent clerk Elizabeth Quijano stamped the front page of the fax transmittal letter with the red "faxed" stamp and hand wrote the date 01-21-03 into the red faxed stamp. See attached Declaration of Elizabeth Quijano. The transmission of the faxed response was later docketed by patent paralegal Vivian M. Emberley (initials VME), as evidenced by the blue stamp on the reverse side of the transmittal sheet with the handwritten docketing date 1/28/03. See attached Declaration of Vivian M. Emberley. This red "faxed" stamp with handwritten date and the blue docketing stamp with handwritten further date provide evidence that the response was faxed to the USPTO on January 21, 2003, as asserted by Petitioner and attested to by the attached Declarations.

4. There is no separate receipt for the facsimile filing. The USPTO did not send a return receipt; this is probably because the facsimile number provided by the USPTO is not the generally utilized fax number for filing responses. The Petitioner's fax machine does not automatically provide a receipt; a receipt request button must be pushed. It was not pushed in this instance, and therefore Petitioner's fax machine did not provide a receipt at the time of faxing of the response to the USPTO.

5. When the Notice of Abandonment was received, an attempt was made to print a fax log, which would indicate the transmission of the response to the USPTO. However, the fax response was sent in January, and it was July when the Notice of Abandonment was received. Petitioner's fax machine manufacturer was contacted (see attached e-mail) in an attempt to obtain a fax log. However, as the responsive e-mail indicates, the facsimile machine memory only holds 40 prior records before it becomes written over. In the time period between January and July the record of the January 21st facsimile transmission to the USPTO was written over.

C. Petition

Based on the above, Applicant states that a complete response was timely filed by facsimile to the fax number provided by the USPTO personnel. Applicant therefore petitions that the holding of abandonment of the application be withdrawn. The USPTO is authorized to

charge any fees related hereto to Deposit Account No. 08-3240. A duplicate of this Petition is attached.

II. Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b). Alternative.

A. Basic Facts

This application became abandoned on April 23, 2003. This Petition is filed within one year of the date of abandonment. This application became abandoned unintentionally, and a response to the final Office Action is attached. The applicant is a large entity, the petition fee is \$1,300.00. The USPTO is authorized to charge any fees related hereto to Deposit Account No. 08-3240. A duplicate of this Petition is attached.

This Petition for Revival of Unintentionally Abandoned Application is made in the alternative to the Petition to Withdraw the Holding of Abandonment set forth above.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Respectfully submitted,



ROBERT O. GUILLOT

Reg. No. 28,852

Dated: August 28, 2003

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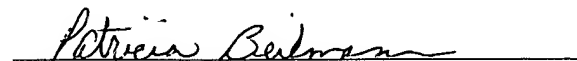
Intellectual Property Law Offices
1901 S. Bascom Avenue, Suite 660
Campbell, CA 95008
Telephone: (408) 558-9950
Facsimile: (408) 558-9960

Certificate of Mailing (37 CFR 1.10)

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service in an envelope addressed to the Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 as "Express Mail Post Office to Addressee."

August 28, 2003
(date)

EV326959230US (Mailing Label No.)


(Signature of Patricia Beilmann)



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: R.E. Fontana

Atty Docket: SJO990203US1

Serial No.: 09/638,663

Art Unit: 2652

Filing Date: August 14, 2000

Examiner: Allen J. Heinz

Title: **"PLANAR MAGNETIC HEAD AND FABRICATION METHOD THEREFOR"**

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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**DECLARATION OF PATRICIA BEILMANN IN SUPPORT OF PETITION TO
WITHDRAW HOLDING OF ABANDONMENT**

I, Patricia Beilmann, state as follows:

1. I am a patent secretary employed at Intellectual Property Law Offices.
2. On or about January 21, 2003 I telephoned the USPTO at telephone number (703) 305-3900 to obtain a telephone number to fax a response to a final Office Action in the above titled matter.
3. I was instructed to use facsimile number (703) 746-5568 by the person that answered the telephone. I did not record the name of the person.
4. On January 21, 2003 I completed the preparation of the response to the Office Action and the fax transmittal document and I gave them to patent clerk Elizabeth Quijano to fax to the U.S. Patent Office.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Dated: August 28, 2003


Patricia Beilmann



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: R.E. Fontana

Atty Docket: SJO990203US1

Serial No.: 09/638,663

Art Unit: 2652

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P.O. Box 1450

Alexandria, VA 22313-1450

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**DECLARATION OF ELIZABETH QUIJANO IN SUPPORT OF PETITION TO
WITHDRAW HOLDING OF ABANDONMENT**

I, Elizabeth Quijano, state as follows:

1. I am a patent clerk employed at Intellectual Property Law Offices.
2. On January 21, 2003 I faxed the response to the Office Action to the USPTO at telephone number (703) 746-5568.
3. Immediately following the transmission of the fax I stamped the red "faxed" stamp on the front page of the transmittal letter. I then hand wrote the date of fax transmission 1-21-03 on the transmittal letter.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Dated: August 28, 2003



Elizabeth Quijano



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: R.E. Fontana

Atty Docket: SJO990203US1

Serial No.: 09/638,663

Art Unit: 2652

Filing Date: August 14, 2000

Examiner: Allen J. Heinz

Title: **"PLANAR MAGNETIC HEAD AND FABRICATION METHOD THEREFOR"**

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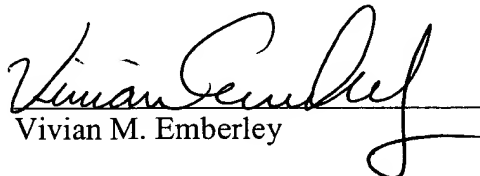
**DECLARATION OF VIVIAN M. EMBERLEY IN SUPPORT OF PETITION TO
WITHDRAW HOLDING OF ABANDONMENT**

I, Vivian M. Emberley, state as follows:

1. I am a patent paralegal employed by Intellectual Property Law Offices.
2. On January 28, 2003 I docketed the response to the Office Action and stamped the reverse side of the transmittal letter with the blue docketing stamp. I hand wrote the date 1/28/03 and initialed the docketing stamp.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Dated: August 28, 2003


Vivian M. Emberley



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/638,663	08/14/2000	Robert E. Fontana	SJO990203US1	9662

32112 7590 10/23/2002

INTELLECTUAL PROPERTY LAW OFFICE
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL, CA 95008



EXAMINER

HEINZ, ALLEN J

ART UNIT PAPER NUMBER

2652

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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OFFICE OF PETITIONS

Dec 11/03

PROCESSED BY TELETYPE UNIT



Office Action Summary

Application No.
09/638,663

Applicant(s)
R. FONTANA, ET AL

Examiner
A. J. HEINZ

Art Unit
2652



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. 1.131).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce an earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4 Sep 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

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Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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Art Unit: 2652

1. Claims 1-10 continue to be withdrawn from further consideration by the examiner, pursuant 37 CFR 1.142(b), as being drawn to the non-elected invention. Election was made **without** traverse in Paper #6.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The Title should provide a more detailed structural identification of the feature or features which distinguish the invention from the prior art. The intended results produced by the structural differences can also be part of the content of the Title.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 11-18 are rejected under 35 U.S.C. § 102(e) as being anticipated by Sasaki.

Art Unit: 2652

Applicant's attention is respectfully directed to the embodiment of Figs. 15A and 15B which shows all of the claimed features including the feature of the P2 pole including a body portion and P2 pole tip portion being disposed upon said write gap layer 22. Note; for further identification of the structure of Sasaki that reads on the claimed structure, see paragraph 4 of the first office action.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Serial Number: 09/638,663

Page 3

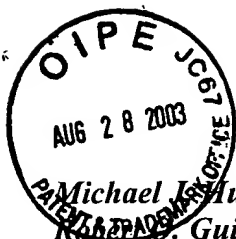
Art Unit: 2652

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A.J. HEINZ whose telephone number is (703)308-1544.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist of Group 2700 whose telephone number is (703)305-3900.

A.J. HEINZ
PRIMARY PATENT EXAMINER
GROUP ART UNIT 2652

A handwritten signature in cursive script, appearing to read "A.J. Heinz", written over a horizontal line.



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Michael J. Hughes
Robert O. Guillot
Raymond E. Roberts
Larry B. Guernsey

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Campbell, California 95008
Telephone: (408) 558-9950
Facsimile: (408) 558-9960
www.iplo.com

FAX COVER LETTER

Date: January 21, 2003

TO: Examiner **Allen J. Heinz**
COMPANY: U.S. Patent and Trademark Office
PHONE:
FAX: (703) 746-5568

FROM: Robert O. Guillot
DIRECT DIAL: (408) 558-7886
E-MAIL: rguillot@IPLO.com
RE: Amendment After Final Office Action
Serial No. 09/638,663
Filed: August 14, 2000

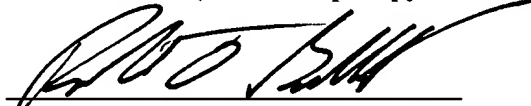
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COMMENTS: Attached is:

Transmittal;
Amendment After Final Office Action;
Attachment A (Marked Up Copy of Amended Claims)


Robert O. Guillot, Reg. No. 28,852

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Completed by Pat Beilmann

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09-21-03